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juries by jumping from his engine upon running into a switch held to sustain a finding that plaintiff was not negligent in failing to keep a proper lookout for signals and obstructions.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 987-996; Dec. Dig. § 281.* 9 Va.-W. Va. Enc. Dig. 705.]

Error to Circuit Court, Botetourt County.

Action by D. F. McCarthy against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

J. M. Perry, of Staunton, and *R. M. Parrish*, for plaintiff in error.

W. E. Allen, of Covington, for defendant in error.

POLGLAISE *v.* COMMONWEALTH.

Jan. 16, 1913.

[76 S. E. 897.]

1. Highways (§ 166*)—Regulation of Use—Validity.—Const. § 65 (Code 1904, p. ccxxiv) provides that the General Assembly may confer upon county boards of supervisors such powers of local and special legislation as it may deem expedient, not inconsistent with constitutional limitations. Act approved March 12, 1904 (Laws 1904, c. 106 [Code 1904, § 944a]), as amended by act approved March 14, 1906 (Laws 1906, c. 212), and further amended by act approved March 15, 1910 (Laws 1910, c. 226) enacted pursuant to this constitutional provision, empowers boards of supervisors to make such directions as they may deem best for working, keeping in order, and repairing of the roads and bridges of the county. While election proceedings were pending, and before there had been a vote of the people authorizing the board to make any regulation, the board of supervisors of a county coming within the provisions of such statutes adopted a regulation merely to protect highways being constructed and repaired at great cost to the public from being cut up and damaged by hauling excessive loads over them, which regulation put certain limits on the width of tires, but did not attempt to regulate the width of tires on vehicles used on "improved" highways. Held, that such regulation was not violative of a further provision of the amendatory act of 1910 that the board of supervisors shall not fix the width of tires until the question shall have been submitted to the qualified voters.

[Ed. Note.—For other cases, see Highways, Cent. Dig. §§ 4-57; Dec. Dig. § 166.* 3 Va.-W. Va. Enc. Dig. 667; 15 Va.-W. Va. Enc. Dig. 232.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

2. Highways (§ 166*)—Power to Regulate—Board of Supervisors.—In the construction, maintenance, and care of public roads, the county boards of supervisors are a co-ordinate branch of the state, government, as fully as are the common councils of the several cities and town within the state; and the validity of the regulations of such boards is determined by the rules applicable to ordinances passed to protect municipal streets and highways.

[Ed. Note.—For other cases, see Highways, Cent. Dig. §§ 4-57; Dec. Dig. § 166.* 3 Va.-W. Va. Enc. Dig. 667; 15 Va.-W. Va. Enc. Dig. 232.]

3. Constitutional Law (§§ 208, 235*)—Validity of Regulations—Description.—A regulation of a county board of supervisors as to the use of highways was not invalid as denying the persons to whom it applied the equal protection of the law, or as class legislation and unreasonable, because, in its application, it classified the haulers of lumber, ties, and wood in a class separate from other persons hauling over the road.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 649-677, 683; Dec. Dig. §§ 208, 235.* 3 Va.-W. Va. Enc. Dig. 202; 14 Va.-W. Va. Enc. Dig. 235; 15 Va.-W. Va. Enc. Dig. 198.]

4. Constitutional Law (§ 212*)—Equal Protection.—The equal protection clause of Const. U. S. Amend. 14 does not take from the state the power to classify in the adoption of police laws, provided the classification is made on a reasonable basis, though not with mathematical nicety.

[Ed. Note.—For other cases, see Constitutional Law, Cent. Dig. §§ 684, 705; Dec. Dig. § 212.* 3 Va.-W. Va. Enc. Dig. 202; 14 Va.-W. Va. Enc. Dig. 235; 15 Va.-W. Va. Enc. Dig. 198.]

Appeal from Circuit Court, Spottsylvania County.

Benjamin Polglaise was convicted of violating the road law of Spottsylvania county, and he appeals. Affirmed.

A. T. Embrey and F. W. Coleman, both of Fredericksburg, for plaintiff in error.

The Attorney General and T. S. Coleman, of Spottsylvania, for the Commonwealth.

HOBDAY v. KANE.

Jan. 16, 1913.

[76 S. E. 902.]

1. Landlord and Tenant (§ 291*)—Unlawful Detainer—Notice—Mistake in Date.—That notice by landlord to tenant to deliver up pos-

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.